

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
CONDITIONAL USE PERMIT REPORT (#FCU-22-01)
SUNY & MELISSA CHEFF
FEBRUARY 7, 2022

I. GENERAL INFORMATION

A. Project Description

This is a report to the Flathead County Board of Adjustment regarding a request from Suny & Melissa Cheff for a Conditional Use Permit for a Recreational Facility to allow for an event venue for various activities. The property is located within the Lower Side Zoning District and is zoned 'SAG-10, *Suburban Agricultural*.'

B. Application Personnel

1. Owner/Applicant:

Suny & Melinda Cheff
175 Somers Stage Road
Kalispell, MT 59901

C. Process Overview

1. Land Use Advisory Committee/Council

The proposed land use is not located within the advisory jurisdiction of a Land Use Advisory Committee.

2. Board of Adjustment

The Flathead County Board of Adjustment will conduct a public hearing on the proposed zoning map amendment on March 1, 2022 at 6:00 P.M. in the 2nd Floor Conference Room of South Campus Building located at 40 11th Street West in Kalispell. Documents pertaining to this file are available for public inspection in the Flathead County Planning and Zoning Office, located on the second floor of the South Campus Building.

II. PROPERTY CHARACTERISTICS

A. Property Location and Size

The subject property is located at 1220 Lower Valley Road southeast of Kalispell, MT (see Figure 1 below). The property is 10.056 acres and can legally be described as Lot 1A of Cloverleaf Estates Subdivision in Section 35, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana.

Figure 1: Subject property (outlined in yellow)



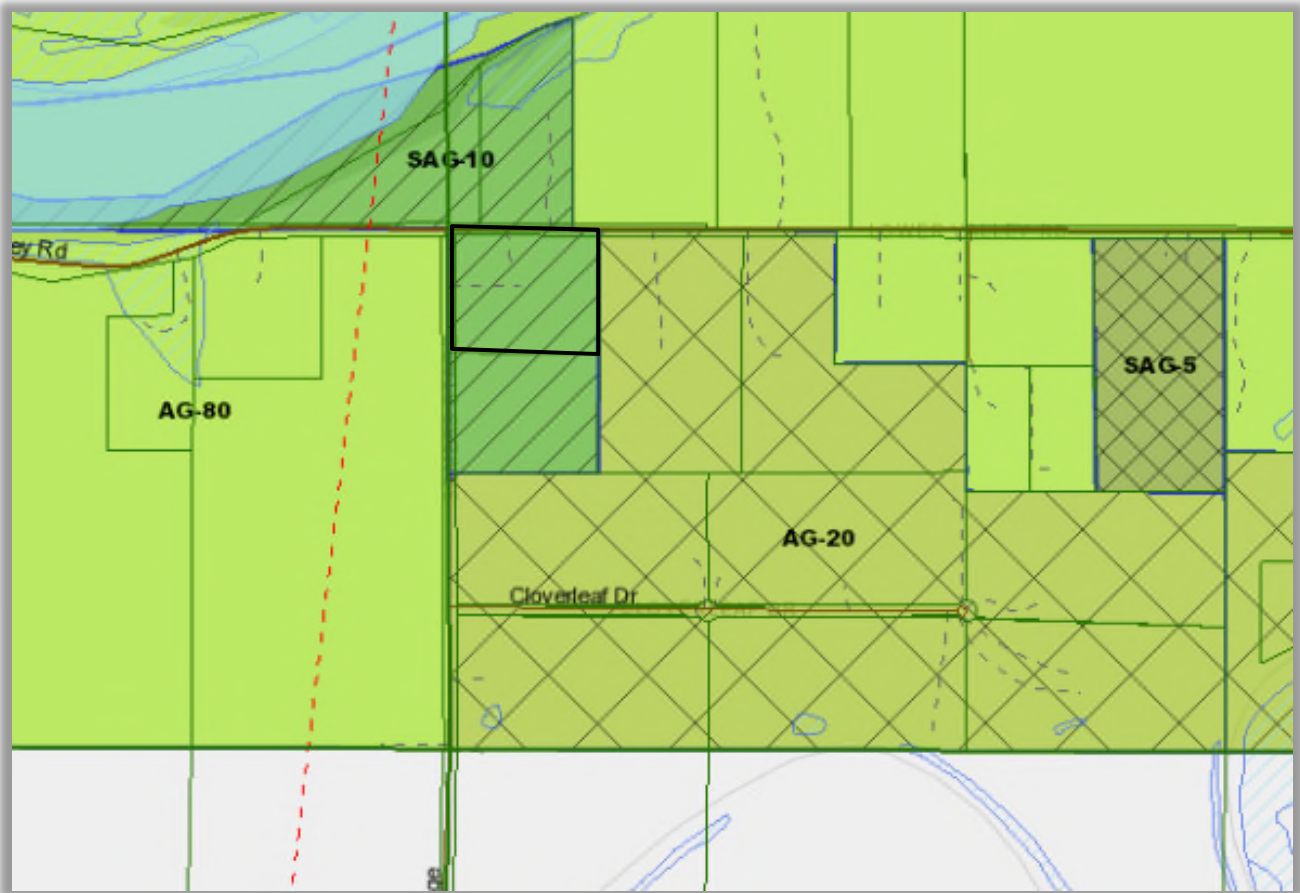
B. Existing Land Use(s) and Zoning

The property is currently developed with a single-family dwelling, detached garage, barn and multiple accessory structures. The remainder of the property currently appears to be agricultural as there are horses on a portion of the property. The property is within the Lower Side Zoning District and is zoned ‘SAG-10 Suburban Agricultural.’ SAG-10 is defined as, “A district to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.”

C. Adjacent Land Use(s) and Zoning

The property is adjacent on all sides with property zoned AG-20, AG-80, and SAG-10. There is property that is not zoned within 1/3 of a mile to the south and east. The limits of the City of Kalispell are located approximately 1.5 miles to the west.

Figure 2: Zoning surrounding the subject property (outlined in black)



D. Summary of Request

The applicant is proposing to develop a Recreational Facility in order to offer the property as an event venue for various activities. A Recreational Facility is defined as, “A structure or use of property not otherwise listed in these regulations to accommodate the enjoyment, healthful activities, and leisure of the facility’s users. Such a use may be enclosed by walls and roof (indoor) or an open-air (outdoor) arrangement.” The application states that, “As we visited on Friday, they can book the venue for 1, 2 or 3 days – no overnight stays this year with the venue. We would like to have a worship night for our church family, grad parties, birthday parties, anniversaries, weddings, art show and other day events.”

Figure 3: Site Plan

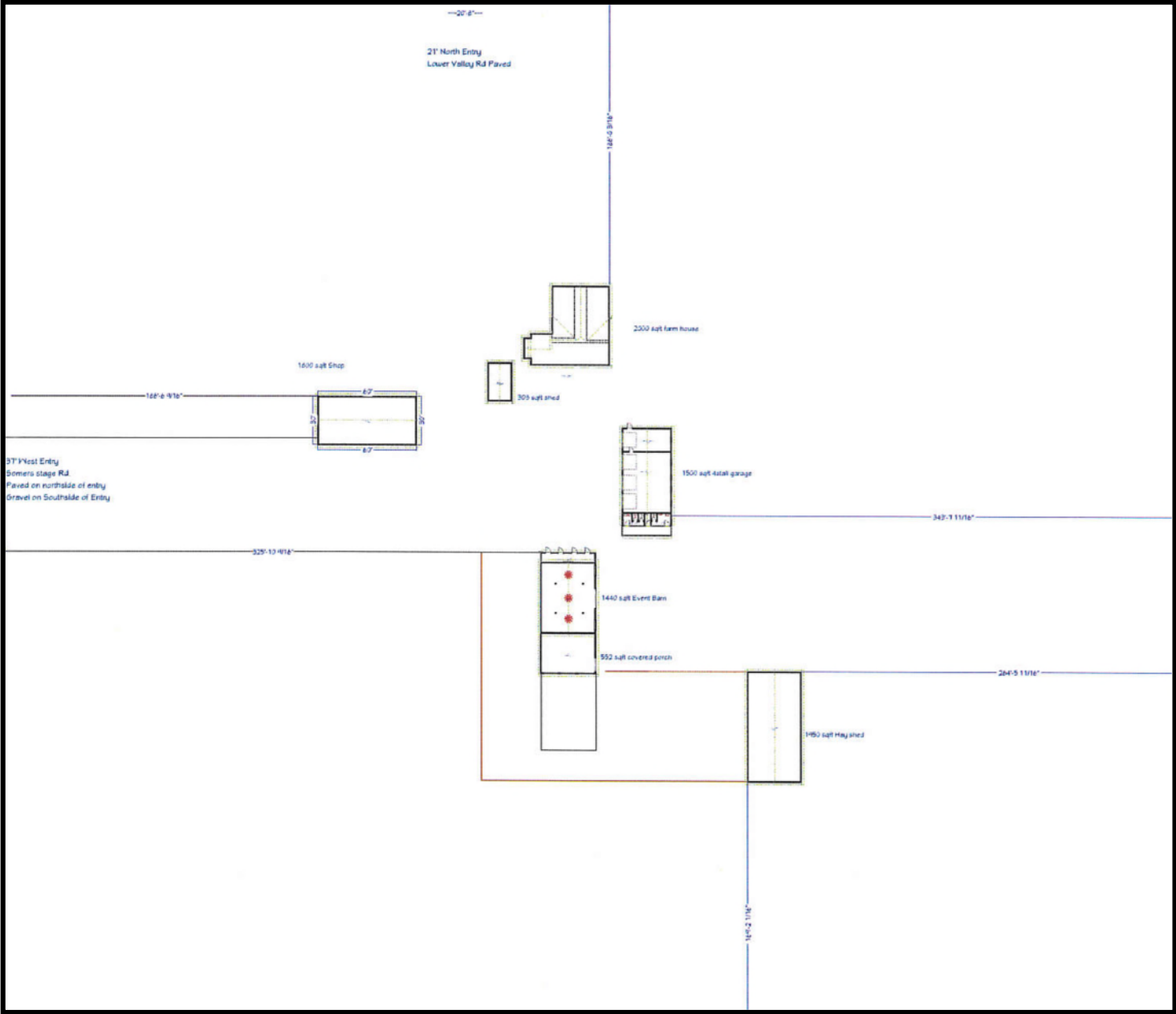


Figure 4: Aerial view of parking/event area



III. COMMENTS

A. Agency Comments

1. Agency referrals were sent to the following agencies on January 24, 2022:
 - Somers/Lakeside Fire Department
 - Flathead County Road and Bridge Department
 - Montana Department of Transportation
 - Flathead County Solid Waste
 - Flathead City-County Environmental Health Department
 - Flathead County Weeds & Parks Department
 - Bonneville Power Administration
 - Flathead County Sheriff's Office
 - Montana Department of Natural Resources & Conservation
 - Somers School District
2. The following is a summarized list of agency comments received as of the date of the completion of this staff report:
 - BPA
 - Comment: "At this time, BPA does not object to this request, as the property is located

141.65 yards from the nearest BPA transmission lines or structures.”

- Flathead County Solid Waste District
 - Comment: “[...]. After reviewing the application the Solid Waste District views no negative impact with solid waste issues at this time.
 - The District requests that all solid waste generated at the proposed location be hauled by private hauler. Evergreen Disposal is the licensed (PSC) Public Service Commission Licensed hauler in this area. [...].”
- Flathead County Road and Bridge Department
 - Comment: “At this point the County Road Department does not have any comments on this request.”
- Flathead City-County Health Department
 - Comment: “This parcel has no existing Certificate of Subdivision Plat Approval (COSA). This parcel was a court ordered split in 2010. This parcel will need to be reviewed for the potable water supply, wastewater treatment and disposal, storm water drainage and solid waste disposal.
 - Operation of a camp and retreat center in the State of Montana requires licensure under Title 50-51-201 MCA, as a public accommodation and a retreat center must be compliant with ARM 37.111.1.
 - Operation of the on-site water supply must comply with Food and Consumer Safety Circular 1-2012-Standards for Nonpublic Water Supplies Serving Licensed Establishments.”

B. Public Comments

1. Notification was mailed to property owners within 150 feet of the subject property on February 2, 2022 pursuant to Section 2.06.040(3) of the Flathead County Zoning Regulations. Legal notice of the public hearing on this application will be published in the February 13, 2022 edition of the *Daily Interlake*.
2. Public Comments Received

As of the date of the completion of this staff report, no written public comments have been received to date regarding the requested conditional use permit. It is anticipated any individual wishing to provide public comment on the proposal will do so during the public hearing scheduled for March 1, 2022. Any written comments received following the completion of this report will be provided to the Board and summarized during the public hearing.

IV. CRITERIA REQUIRED FOR CONSIDERATION

Per Sections 2.06.080 and 2.06.100 of the Flathead County Zoning Regulations, what follows are criteria required for consideration of a Conditional Use Permit and suggested findings of fact based on review of each criterion.

A. Site Suitability

1. Adequate Usable Space

The subject property is approximately 10.056 acres in size. The application states, “Barn inside 1800 sq. ft.; additional 600 square feet covered to 10 acres of useable space.”

The permitted lot coverage in the SAG-10 zone is 20%. The structures currently developed on the property, including the single-family dwelling, detached garage, barn, and the

accessory structures cover a total of 2.13% of the property. The application does not indicate that any other structures will be developed to accommodate the recreational facility.

Finding #1 – The subject property appears to contain adequate usable space because the property is approximately 10.056 acres, the structures cover 2.13% of the subject property and the proposed addition of the recreational facility will not require construction of any new buildings.

2. Adequate Access

The application states, “Access from Somers Stage and second from Lower Valley Road.” Lower Valley Road and Somers Stage are County maintained roads within a 60-foot easement. Lower Valley Road is a two-lane paved road while Somers Stage is a two-lane gravel road.

Finding #2 – The access appears adequate for the proposed recreational facility because the property has legal and physical access points via Lower Valley Road and Somers Stage and the Flathead County Road and Bridge Department had no concerns regarding this proposal.

3. Absence of Environmental Constraints

The subject property is primarily open space with a few mature trees and two access roads. The subject property is located on FEMA FIRM panel 30029C 1840J and the lot is located in Zone AE which is classified as an area within the 1% annual flood. There are no streams, creeks or wetlands on the property and no structures are proposed. There are no apparent environmental constraints that would affect the proposed use.

Finding #3 – The subject property appears to be suitable for the proposed use because the property, not mapped within a 100 year floodplain, and no environmental constraints exist that would limit the suitability of the property for the proposed recreational facility.

Figure 5: FEMA FIRM Panel 30029C1840J



B. Appropriateness of Design

1. Parking Scheme

The application states, “Dependent on size of event and time of year, driveway and field.”

The applicant is proposing parking on areas on three sections of the property two that are currently not being utilized and is open space and the third parking area that is already currently used for parking. The site plan shows three rectangular parking schemes with two-way traffic circulation.

The closest use listed in the parking regulations to a recreational facility would be for ‘Convention and meeting facilities, sole use’ found in Section 6.03.050 FCZR and ‘Auditoriums, theaters, churches or other places of assembly’ [Section 6.06.07]. Both of these uses require 1 space per 5 seats or 40 square feet of gross floor area used for assembly purposes, whichever is greater. It appears that the applicant plans to host events in an indoor and outdoor facility on the property so it appears the parking scheme as proposed should accommodate appropriate parking for the events.

The proposed event space has a total square footage of 16,090 and would require a total of 402 parking spaces. Based on the total square footage of the proposed parking area which totals 25,100, a total of 627 spaces could be utilized for parking for the events.

Section 6.01.030 [FCZR] requires all parking spaces to be clearly designated and demarcated. Therefore, all parking surfaces must be designated properly by painted lines or other methods of demarcation, per Section 6.14.010 FCZR.

Finding #4 – The proposed designated parking scheme is acceptable because the parking area allows for approximately 402 parking spaces and there will be demarcated parking spots for the recreational facility.

2. Traffic Circulation

According to the application, “Driveways and fields, loop for turning.” Ingress and egress to the recreational facility is via Lower Valley Road and Somers Stage.

The traffic aisles are required to be minimum of 12 feet for one-way traffic with 45 degree parking [Appendix A (FCZR)]. Section 6.01.030 [FCZR] requires all parking spaces to be clearly designated and demarcated. All parking surfaces must be designated properly by painted lines or other methods of demarcation, per Section 6.14.010 FCZR, which will layout the driving lanes and improve traffic circulation.

The existing gravel driveway off Somers Stage is approximately 37 feet wide and the paved driveway located off Lower Valley Road is approximately 21 feet in width, therefore the private driveways serving the proposed parking areas appears to be appropriate.

Finding #5 – The proposal appears to accommodate traffic circulation for the proposed use because there is room in the parking area to accommodate 45 degree parking and traffic aisle widths that meet standards set forth in Appendix A [FCZR].

3. Open Space

The subject property is approximately 10.056 acres in size and is currently developed as residential and agricultural with a single-family dwelling, detached garage, barn, and multiple accessory structures. The permitted lot coverage in the SAG-10 zone is 20%. With an acreage of 10.056 acres and the positioning of the current structures, there is adequate open space for the proposed use. According to the applicant, a majority of the property will remain open.

Finding #6 – The proposed open space on the subject property appears adequate because the property will remain open as pasture land and no new buildings are being proposed as part of this expansion.

4. Fencing/Screening

The application indicates that the events will take place within the area around the existing structures. The application states, “Fencing from livestock, kept from event space.”

Staff determined that there is fencing on the subject property; however, any events conducted on the east and south side of the existing buildings can be seen from the neighbors to the south and east. No fencing or screening is required for the use or in the zone. Any additional fencing constructed on the property would be required to comply with Section 5.04 [FCZR].

5. Landscaping

The application states, “Sprinklers, shrubs, trees, flowers and grass lawn.”

There are no landscaping requirements for a recreational facility or the SAG-10 zoning.

Finding #7 – The current fencing/screening and landscaping on the subject property appears appropriate because no additional landscaping, fencing or screening is required and the applicant is not proposing any additional landscaping or screening.

6. Signage

The subject property currently has no signage aside from typical address numbers. The applicants have indicated, “Welcome sign or non-lit business (ranch) sign.” All signage will be required to meet the standards outlined in FCZR Section 7.02.010.

7. Lighting

While currently there is typical residential lighting on the subject property, the applicant states, “Farm lights and string lights.” The event area is located on the center of the property. As such it is likely that the lighting shall not be deleterious to the adjoining property owners or occupants. The lighting will need to be shielded or hooded to comply with performance standards set forth in [FCZR] Section 5.12.

Finding #8 – The proposed lighting and signage appears appropriately design because the proposed signage will be required to comply with the signage allowed in the SAG-10 zone and the lightning will be located in the center of the property which will minimize impacts on neighboring properties.

C. Availability of Public Services and Facilities

1. Sewer

According to the application, “Portable sewage (toilets) will be used for first few years – establish additional septic based on needs and approval.”

It should be noted that the comment received from the Flathead City-County Health Department stated, “This parcel has no existing Certificate of Subdivision Plat Approval (COSA). This parcel was a court ordered split in 2010. This parcel will need to be reviewed for the potable water supply, wastewater treatment and disposal, storm water drainage and solid waste disposal.” While the applicant is not proposing any additional structures and it appears that the events will, be held both inside and outside, if approved, the proposed recreational facility will become a permanent feature of this property.

The Environmental Health Department additionally commented, “Operation of a camp and retreat center in the State of Montana requires licensure under Title 50-51-201 MCA, as a public accommodation.

“Operation of a camp and retreat center must be compliant with Montana ARM 37.111.1.

Prior to operation of the recreational facility the applicant will be required to obtain all necessary permitting from Environmental Health and DEQ.

2. Water

The applicant states, “Property has a well over 100+ gallons a minute.” According to Environmental Health, “Operation of the onsite water supply must comply with Food and Consumer Safety Circular 1-2012- Standards for Nonpublic Water Supplies Serving Licensed Establishments.” The applicant will be required to obtain all permitting from Environmental Health and DEQ for prior to the operation of the recreational facility.

3. Storm Water Drainage

Storm water drainage is proposed to be managed onsite. The applicant is not proposing any new construction, therefore any increased storm water runoff as a result of this proposal is not expected. The applicant will be required to obtain all permitting from Environmental Health and DEQ for prior to the operation of the recreational facility.

Finding #9 – The proposed use of temporary portable toilets to serve the recreational facility appears to not be appropriate because portable toilets are not generally permitted for uses like this and it shall be required to be reviewed and approved Flathead City-County Health Department.

Finding #10 - Water and storm drainage services appears to be adequate because the proposed recreational facility shall be required to be reviewed and approved by the Flathead City-County Environmental Health Department before the subject property can be utilized for the recreational facility.

4. Fire Protection

The subject property is served by the Somers Fire Department. The application states, “Fire extinguishers will be located in all buildings. Somers Fire Station is our closest station.” Considering the property is mostly grass, the applicants will be required to water the grass areas prior to the events.

The Somers Fire Station is located approximately 6 miles from the subject property. Given the close proximity to the Somers Fire Station emergency response times would not be unreasonably long. The Fire Chief from the Somers Fire Department did not submit comment.

5. Police Protection

The property would be served by the Flathead County Sheriff’s Department. It is anticipated response times in emergency would not be unreasonably long given the property’s proximity to an urban, developed area of the County.

Finding #11 – The proposed expansion appears to have acceptable impacts on public services and facilities, with conditions, because the Creston Fire Department and Flathead County Sheriff could provide services to the subject property with an acceptable response time.

6. Streets

The property currently has access via Lower Valley Road which is a paved, County maintained road. A second access point is via Somers Stage which is a gravel, County maintained road. The Flathead County Road and Bridge Department did not have any concerns regarding this request.

Finding #12 – There appears to be adequate availability of streets for the proposed use because the property is accessed via Lower Valley Road and Somers Stage in which one is paved and one gravel, both roads maintained by Flathead County.

D. Immediate Neighborhood Impact

1. Excessive Traffic Generation

The subject property is accessed from Lower Valley Road as well as Somers Stage. Both roads county maintained, two lane roads within 60-foot easements however Somers Stage is gravel and not paved as Lower Valley Road is. Comment received from the Flathead County Road and Bridge Department states, “At this point the County Road Department does not have any comments on this request.”

Traffic counts for Lower Valley Road, north of Manning Road, reveal the daily traffic volume of approximately 302 trips per day. Traffic counts for Somers Stage, south of Lower Valley Road indicate a daily traffic volume of approximately 139 trips per day. Because it appears the events will be held both indoors and outdoors, it is difficult to estimate exactly how much traffic will be generated by the proposed events as they will vary in the amount of attendees.

The traffic increase in the area would be negligible with 20 guests attending a small graduation party. However, a wedding with 250 in attendance, assuming that an average of two wedding guests per vehicle, could increase the volume of traffic on Lower Valley Road by approximately 41%, and increase the traffic volume on Somers Stage Road by approximately 90%. The application states, “Events will be booked for 3-4 days at a time. Traffic will increase 2 days a week on average. Multiple direction of entry from south, east and west.” However, the area will experience short durations of high traffic volume associated with larger events.

Finding #13 – Additional vehicle traffic associated with the proposed use is anticipated to generate excessive traffic associated with higher volumes of guests, especially when those guests are arriving at a set hour to witness an event. These impacts could be mitigated by limiting the total number of guests.

2. Noise or Vibration

The applicant states, “Any music will have a courtesy stopping time for surrounding neighbors before midnight. Closest neighbors are 200 yards away.” While the applicant did not specifically address whether either the events or the typical music that accompanies many events will be amplified, it is probable that the sounds generate from most of the events will be heard by adjacent residents. Having said that, staff would recommend that, if approved, there should be a condition that the events should end no later than 11:00PM.

Finding #14 – The noise and vibrations generated by the recreational facility would likely impact the immediate neighborhood because amplified noise could be heard a ways away from the subject property, the amplified noise and the hours proposed may not adequately mitigate the sounds generated by some of the proposed events.

3. Dust, Glare or Heat

The applicant states, “Both entrances are directly off pavement or less than 5 yards from pavement.” Dust is negligible when driven on at appropriate speeds. The fields are grass and kept maintained. It may be appropriate, however, that a condition be placed on any approval to require the applicant to provide dust control plan.

4. Smoke, Fumes, Gas, or Odors

The applicant has stated that, “None that will require a permit, normal use.” Seasonal burn restrictions would be adhered to.

Finding #15 – The proposed uses are anticipated to have a minimal impact on the neighborhood as a result of dust, glare, heat smoke, fumes, gas, or odors because the recreational facility would generate minimal glare, heat, smoke, fumes, gas and odors that would not have adverse effect on neighbors and dust could be adequately mitigated by a dust control plan.

5. Inappropriate Hours of Operation

The applicant states, “All events will have a quiet time of midnight until 8am.” While it may not be inappropriate for certain smaller events to end before 12:00AM, if approved, there should be a definitive end time for all events. Moreover, if this request is approved and the applicant hosts larger events such as weddings most weekends during the summer months, the adjacent residents will be subject to those activities every weekend night during the summer months that, are advised to end at midnight.

Finding #16 – The hours of operation and frequency of events proposed by the applicant could have an immediate impact on neighbors because of the rural nature of the property, frequency and type of events and concerns that noise can be heard from adjacent properties.

V. SUMMARY OF FINDINGS

1. The subject property appears to contain adequate usable space because the property is approximately 10.056 acres, the structures cover 2.13% of the subject property and the proposed addition of the recreational facility will not require construction of any new buildings.
2. The access appears adequate for the proposed recreational facility because the property has legal and physical access points via Lower Valley Road and Somers Stage and the Flathead County Road and Bridge Department had no concerns regarding this proposal.
3. The subject property appears to be suitable for the proposed use because the property, not mapped within a 100 year floodplain, and no environmental constraints exist that would limit the suitability of the property for the proposed recreational facility.
4. The proposed designated parking scheme is acceptable because the parking area allows for approximately 402 parking spaces and there will be demarcated parking spots for the recreational facility.
5. The proposal appears to accommodate traffic circulation for the proposed use because there is room in the parking area to accommodate 45 degree parking and traffic aisle widths that meet standards set forth in Appendix A [FCZR].
6. The proposed open space on the subject property appears adequate because the property will remain open as pasture land and no new buildings are being proposed as part of this expansion.

7. The current fencing/screening and landscaping on the subject property appears appropriate because no additional landscaping, fencing or screening is required and the applicant is not proposing any additional landscaping or screening.
8. The proposed lighting and signage appears appropriately design because the proposed signage will be required to comply with the signage allowed in the SAG-10 zone and the lightning will be located in the center of the property which will minimize impacts on neighboring properties.
9. The proposed use of temporary portable toilets to serve the recreational facility appears to not be appropriate because portable toilets are not generally permitted for uses like this and it shall be required to be reviewed and approved Flathead City-County Health Department.
10. Water and storm drainage services appears to be adequate because the proposed wedding venue shall be required to be reviewed and approved by the Flathead City-County Environmental Health Department before the subject property can be utilized for the recreational facility.
11. The proposed expansion appears to have acceptable impacts on public services and facilities, with conditions, because the Creston Fire Department and Flathead County Sheriff could provide services to the subject property with an acceptable response time.
12. There appears to be adequate availability of streets for the proposed use because the property is accessed via Lower Valley Road and Somers Stage in which one is paved and one gravel, both roads maintained by Flathead County.
13. Additional vehicle traffic associated with the proposed use is anticipated to generate excessive traffic associated with higher volumes of guests, especially when those guests are arriving at a set hour to witness an event. These impacts could be mitigated by limiting the total number of guests.
14. The noise and vibrations generated by the recreational facility would likely impact the immediate neighborhood because amplified noise could be heard a ways away from the subject property, the amplified noise and the hours proposed may not adequately mitigate the sounds generated by some of the proposed events.
15. The proposed uses are anticipated to have a minimal impact on the neighborhood as a result of dust, glare, heat smoke, fumes, gas, or odors because the recreational facility would generate minimal glare, heat, smoke, fumes, gas and odors that would not have adverse effect on neighbors and dust could be adequately mitigated by a dust control plan.
16. The hours of operation and frequency of events proposed by the applicant could have an immediate impact on neighbors because of the rural nature of the property, frequency and type of events and concerns that noise can be heard from adjacent properties.

VI. CONCLUSION

Upon review of this application, the request to allow for Recreational Facility on the subject property is generally supported by the review criteria and the Findings of Fact listed above. Should the Flathead County Board of Adjustment choose to adopt staff report FCU-22-01 as Findings of Fact and approve the conditional use permit, the following conditions would ensure compliance with the review criteria and appropriate measures to mitigate impacts:

VII. CONDITIONS OF APPROVAL

1. The recreational facility shall be in substantial conformance with the application materials and site plan as submitted and approved by the Board of Adjustment and modified by the conditions below [FCZR Section 2.06.010].
2. Changes or modifications to the approved use or the site plan shall not be affected unless specifically approved in writing by the Flathead County Board of Adjustment [FCZR Section(s) 2.06.010 and 2.06.020].
3. All structures shall be located in accordance with the minimum yard and maximum height requirements of the SAG-10 zoning district, pursuant to Section 3.07.040 of the Flathead County Zoning Regulations.
4. The recreational facility will require a minimum of 400 parking spaces as shown on the site plan submitted with the application.
5. All vehicular access points, including internal traffic circulation areas, and parking areas shall be clearly established and demarcated through the use of materials appropriate for events in a rural setting in compliance with all applicable provisions of Chapter VI of the Flathead County Zoning Regulations.
6. The applicant shall adhere to all applicable Montana State commercial building requirements as required by the Montana Bureau of Labor and Industry, if applicable.
7. All lighting on the subject property shall be shielded or hooded in accordance with the performance standards set forth in Section 5.12 of the Flathead County Zoning Regulations.
8. The proposed water, wastewater treatment, and storm water drainage systems for the recreational facility shall be reviewed as applicable by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality.
9. The driveway shall incorporate the frequent use of dust control techniques in compliance with applicable Flathead County Air Quality Regulations and will be required to provide a dust control plan.
10. After every event the applicant shall be required to clear the property of all trash to prevent the trash from spreading onto the neighbors' yards.
11. No event activities are permissible after 11:00 PM.
12. Fencing on the subject property shall adhere to the performance standards set forth in Section 5.04 of the Flathead County Zoning Regulations.
13. At the end of 12 months from the date of authorization of this permit staff will inspect to verify compliance [FCZR Section 2.06.060].
14. The applicant shall have water hoses available and fire extinguishers readily accessible during all events.
15. The applicant shall ensure the location address signage is visible during day and night time hours.

Planner: lm